Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _11/7/2005_.

2a)☒ This action is FINAL.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-22_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _13,14,20 and 21_ is/are allowed.

6)☒ Claim(s) _1,4,6-10,15,18,19 and 22_ is/are rejected.

7)☒ Claim(s) _2,3,5,11,12,16 and 17_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _15 October 1999_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2.   Claims 1, 6, 8-10, 15 and 22 are rejected under 35 U.S.C. 102(a) as being

anticipated by U.S. Patent No. 6,389,464 to Krishnamurthy et al.

Referring to claim 1, Krishnamurthy et al. discloses a method for management of

a network (col. 3 lines 62-67), comprising: receiving a new set of indicators

corresponding to a node in the network (col. 4 lines 44-53, see the MIB files), wherein

the new set of indicators includes functional characteristics (attributes of the device, col.

4 lines 44-53, here it is understood that the MIB files includes functional characteristics

because a MIB is a SNMP compatible data structure that defines the functional groups

and management objects of a unit or system) of the node; wherein each indicator of the

new set of indicators corresponds to a particular functional characteristic (Web pages

contain particular functional characteristics, Figures 4-29); storing the new set of

indicators in a database (col. 4 lines 44-50), wherein the database includes sets of

indicators corresponding to at least one additional node in the network (devices, col. 4

lines 27-32); and utilizing the database including the new set of indicators to perform

network management functions (col. 4 lines 44-53, see devices to be managed from the site server).

Referring to claim 6, Krishnamurthy et al. discloses the method of claim 1, wherein the set of indicators further includes physical characteristics of the node (Fig. 6, ip_address; Figures 8, 10-14, cornet 16 channel a/b serial switch; Fig. 17, null Driver, Parallel Driver, Async serial Port, Intelligent Async Serial Port).

Referring to claim 8, Krishnamurthy et al. discloses the method of claim 1, wherein performing network management functions further comprises configuring (configured, col. 6 lines 5-10; configure, col. 6 lines 20-25 and 45-50) path endpoints (Fig. 2 ref. signs 12a and 12b and respective portions of the spec.) in the network.

Referring to claim 9, Krishnamurthy et al. discloses the method of claim 1, wherein the network is a communications network that includes one or more of Time Division Multiplexing, Frame Relay (Ethernet, col. 5 lines 55-59, col. 6 lines 26-30, col. 6 line 45, col. 7 lines 25-30, col. 7 lines 35-38 and col. 11 lines 5-10), asynchronous transfer mode, and wireless network formats (wireless, col. 4 lines 1-6; CMIP and TMN, col. 4 lines 10-15).

Referring to claim 10, Krishnamurthy et al. discloses a method for communicating a set of characteristics of a node in a communication network, comprising: determining functional characteristics for the node (attributes of the device, col. 4 lines 44-53, here it is understood that the MIB files includes functional characteristics because a MIB is a SNMP compatible data structure that defines the functional groups and management objects of a unit or system); generating a set of indicators corresponding to the

functional characteristics (col. 4, lines 43-53, here it is understood that the site server

generates the indicators), wherein each indicator of the set of indicators corresponds to

a particular functional characteristic (Web pages contain particular functional

characteristics, Figures 4-29); and combining the set of indicators with physical

characteristic information of the node to produce the set of characteristics for the node

(Fig. 6, ip_address; Figures 8, 10-14, cornet 16 channel a/b serial switch; Fig. 17, null

Driver, Parallel Driver, Async serial Port, Intelligent Async Serial Port).

Referring to claim 15, Krishnamurthy et al. discloses a network management

processor (site server, col. 7 lines 14-30), comprising: a processing module (CPU, col.

7 lines 14-30); and memory (MIB, col. 4 lines 44-50) operable coupled to the processing

module, wherein the memory includes operating instructions that cause the processing

module to: store a received new set of indicators in a database (database, col. 4 lines

44-50), wherein the new set of indicators corresponds to a node in a network, wherein

the database includes indicators corresponding to at least one additional node in the

network (devices, col. 4 lines 27-32), wherein the new set of indicators includes

functional characteristics of the node (attributes of the device, col. 4 lines 44-53, here it

is understood that the MIB files includes functional characteristics because a MIB is a

SNMP compatible data structure that defines the functional groups and management

objects of a unit or system); wherein each indicator of the new set of indicators

corresponds to a particular functional characteristic (Web pages contain particular

functional characteristics, Figures 4-29); and perform network management functions

(manage a particular device, col. 4 lines 44-64) based on the database including the

new set of indicators.

Referring to claim 22, Krishnamurthy et al. discloses the method of claim 10,

wherein each set of indicators includes indicators in a predetermined arrangement (Web

pages contain predetermined arrangements, Fig. 4-29), wherein position arrangement

corresponds to representation of a functional characteristic (Fig. 6, ip_address; Figures

8, 10-14, cornet 16 channel a/b serial switch; Fig. 17, null Driver, Parallel Driver, Async

serial Port, Intelligent Async Serial Port).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 4, 7, 18 and 19 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Krishnamurthy et al. in view of Rose et al.

Referring to claim 4, Krishnamurthy et al. discloses the method of claim 1, but

does not explicitly teach wherein each set of indicators includes indicators indicating

functional support at multiple hierarchical levels within a node to which the set of

indicators corresponds. Rose et al. discloses MIBs with multiple hierarchical levels in

(pages 5-7, 10-14 and 16-18). Therefore, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to have included wherein

each set of indicators includes indicators indicating functional support at multiple

hierarchical levels within a node to which the set of indicators corresponds because MIBs are hierarchical data structures.

Referring to claim 7, Krishnamurthy et al. discloses the method of claim 1, but does not explicitly teach wherein performing network management functions further comprises determining routing paths in the network. Rose et al. discloses routing tables defined by MIBs on (page 10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included wherein performing network management functions further comprises determining routing paths in the network because routing table entries are defined in MIBs.

Referring to claim 18, Krishnamurthy et al. discloses the network management processor of claim 15, but does not explicitly teach wherein each set of indicators includes indicators indicating functional support at multiple hierarchical levels within a node to which the set of indicators corresponds. Rose et al. discloses MIBs with multiple hierarchical levels in (pages 5-7, 10-14 and 16-18). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included wherein each set of indicators includes indicators indicating functional support at multiple hierarchical levels within a node to which the set of indicators corresponds because MIBs are hierarchical data structures.

Referring to claim 19, Krishnamurthy et al. discloses the network management processor of claim 15, but does not explicitly teach wherein performing network management functions further comprises determining routing paths in the network. Rose et al. discloses routing tables defined by MIBs on (page 10). Therefore, it would

have been obvious to one having ordinary skill in the art at the time the invention was

made to have included wherein performing network management functions further

comprises determining routing paths in the network because routing table entries are

defined in MIBs.

Allowable Subject Matter

5.   Claims 13. 14, 20 and 21 are allowed.

6.   Claims 2, 3, 5, 11, 12, 16 and 17 are objected to as being dependent upon a

rejected base claim, but would be allowable if rewritten in independent form including all

of the limitations of the base claim and any intervening claims.

Response to Arguments

7.   Applicant's arguments filed 11/7/2005 have been fully considered but they are

not persuasive. Applicant argued that "prior art solutions did not include functional

characteristics of the particular node in the information conveyed to the network

manager, but rather would merely identify the type of node." However one skilled in the

art would recognize that identification of the type of node is a functional characteristic.

Applicant argued that the Examiner's attempt to take "Official notice" fails to

comply with the requirements set forth in MPEP § 2144.03 and established law.

However one skilled in the art would recognize when it is appropriate to take Official

Notice without documentary evidence to support the examiner' s conclusion.

Official notice without documentary evidence to support an examiner's

conclusion is permissible only in some circumstances. While "official notice" may be

relied on, these circumstances should be rare when an application is under final

rejection or action under 37 CFR 1.113. Official notice unsupported by documentary

evidence should only be taken by the examiner where the facts asserted to be well-

known, or to be common knowledge in the art are capable of instant and

unquestionable demonstration as being well-known. As noted by the court in In re

Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts

beyond the record which may be taken by the examiner must be "capable of such

instant and unquestionable demonstration as to defy dispute" (citing In re Knapp

Monarch Co., 296 F.2d 230, 132 USPQ 6 (CCPA 1961)).

In determining that this action should be made final. The examiner has added a

reference in this Office action after applicant's rebuttal, and the newly added reference

is added only as directly corresponding evidence to support the prior common

knowledge finding, and it does not result in a new issue or constitute a new ground of

rejection, the Office action may be made final. If no amendments are made to the

claims, the examiner must not rely on any other teachings in the reference if the

rejection is made final. If the newly cited reference is added for reasons other than to

support the prior common knowledge statement and a new ground of rejection is

introduced by the examiner that is not necessitated by applicant's amendment of the

claims, the rejection may not be made final. See MPEP § 706.07(a). See references:

http://msdn.microsoft.com/library/default.asp?url=/library/en-

us/snmp/snmp/the_snmp_management_information_base_mib_.asp

http://www.webopedia.com/TERM/M/MIB.html

http://www.tcpipguide.com/free/t_TCPIPMIBObjectsObjectCharacteristicsandObjectTyp
es.htm

http://www.tcpipguide.com/free/t_TCPIPMIBObjectsObjectCharacteristicsandObjectTyp
es-2.htm

Applicant argued that the Examiner appears to be unclear as to which elements

of the cited reference the Examiner considers to teach "a new set of indicators".

However one skilled in the art would recognize that the new set of indicators are

disclosed by the SNMP agent, Web server, a relational database, and a database for

storing HTML pages and MIB files (col. 4 lines 44-53).

Applicant argued that the reference fails to disclose "utilizing the database

including the new set of indicators to perform network management functions."

However one skilled in the art would recognize that storing is a network management

function. Therefore, utilizing the database including the new set of indicators to perform

network management function is disclosed in col. 4 lines 44-50.

Applicant argued that the cited portions of the cited reference fails to disclose the

claimed invention set forth in claim 8. However one skilled in the art would recognize

that the configuring of the site servers are the configuring of the path endpoints that are

set forth in claim 8.

Applicant argued that the examiner has not presented evidence to support that

CMIP and TMN are wireless formats. Here is the evidence:

http://www.wirelessdevnet.com/career/detail.phtml?type=2&id=3928

http://64.233.187.104/search?q=cache:9fJQ7buhBoEJ:www.vertel.com/cases/q_adapte

r.pdf+CMIP+TMN+wireless+&hl=en

Applicant argued that the Examiner has not shown the relevance of CMIP and

TMN as wireless formats. However one skilled would recognize that the relevance is

that CMIP and TMN are included as wireless formats on the communication network of

the cited reference.

Applicant argued that the cited portions of the cited reference fails to disclose the

referenced feature of the present invention as set forth in claim 10. However, one

skilled in the art would recognize that the cited portion of the cited reference does

disclose the reference feature (see cited portions and official notice references).

Applicant argued that the Examiner fails to disclose the referenced feature of the

present invention as set forth in claim 10 because the examiner appears not to attempt

to identify any specific element of the cited reference as disclosing "a set of indicators".

However, any specific element cannot be disclosed because it is more than one

element that comprises a set of indicators (see the SNMP agent, Web server, a

relational database, and a database for storing HTML pages and MIB files (col. 4 lines

44-53)).

Applicant argued that the cited reference fails to disclose the referenced feature

of the present invention as set forth in claim 10 ("combining..."). However, one skilled in

the art would recognize that the cited portions do teach of combining the set of

indicators with physical characteristics information of the node to produce the set of

characteristics for the node.

Applicant argued that the cited portions of the cited reference fail to disclose the referenced feature of the present invention as set forth in claim 15. However, one skilled in the art would recognize that the cited portion of the cited reference does disclose the reference feature (see cited portions and official notice references).

Applicant argued that the Examiner appears not to attempt to identify any specific element of the cited reference as disclosing "a set of indicators." Thus, Applicant submits the cited portions of the cited reference fail to disclose the referenced feature of the present invention as set forth in claim 15. However one skilled in the art would recognize that the set of indicators are disclosed by the SNMP agent, Web server, a relational database, and a database for storing HTML pages and MIB files (col. 4 lines 44-53).

Applicant argued that the cited portion of the cited reference fails to disclose "perform network management functions based on the database including the new set of indicators." However, one skilled in the art would recognize that storing, configuring and alerting are all network management functions disclosed in col. 4 lines 44-64.

Applicant argued that the Examiner's apparent identification of the features of the cited reference as allegedly disclosing a "set of identifier" is contradicted. However, one skilled in the art would recognize that claim 22 depends on claim 10 therefore there is no contradiction.

Applicant argued that features of the cited reference lack disclosure as to "wherein position in the predetermined arrangement corresponds to representation of a

functional characteristic." However one skilled in the art would recognize that these features are disclosed on the Web Pages.

Applicant argued that he cannot find description of multiple hierarchical levels in Rose et al. However one skilled in the art would recognize that the subtrees are the hierarchical levels in Rose et al.

Applicant argued that the Examiner has still not cited evidence to support teaching as to "utilizing the database including the new set of indicators to perform network management functions." However one skilled in the art would recognize that storing is a network management function.

Applicant argued that claims 7 and 19 do not recite defining "notions".

8.   In response to applicant's argument that claims 7 and 19 do not recite defining "notions", routing tables defined by MIBs are the intended use of the cited reference, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

9.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

　　　Any response to this final action should be mailed to:

　　　　Mail Stop AF
　　　　Commissioner for Patents
　　　　P.O. Box 1450
　　　　Alexandria, VA 22313-1450
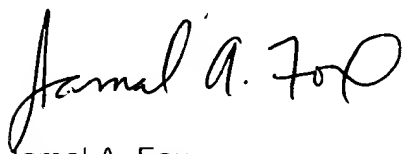
　　　　or faxed to:

　　　　　　(571) 273-8300, (for formal communications intended for entry)

　　　Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on 6:30 AM - 5:00 PM.
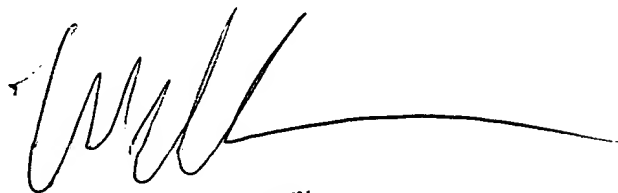
　　　If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Jamal A. Fox

WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER